

REFERENCE TITLE: *nursing care administrators; investigations; costs*

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2684

Introduced by
Representatives Barto: Stump

AN ACT

AMENDING SECTION 36-446.07, ARIZONA REVISED STATUTES; RELATING TO THE BOARD OF EXAMINERS OF NURSING CARE INSTITUTIONS ADMINISTRATORS AND ASSISTED LIVING FACILITY MANAGERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 36-446.07, Arizona Revised Statutes, is amended to
3 read:

4 36-446.07. Disciplinary actions: grounds for disciplinary
5 action; renewal; continuing education; inactive
6 status; hearings; settlement; judicial review;
7 investigation costs

8 A. The board may suspend or revoke the license of any nursing care
9 institution administrator, censure or place on probation any licensed nursing
10 care institution administrator or deny a license as a nursing care
11 institution administrator to any person for any of the following reasons:
12 1. Conviction of a felony or conviction of any misdemeanor involving
13 moral turpitude.

14 2. Obtaining or renewing a license by fraud or deceit.

15 3. Unprofessional conduct.

16 4. Practicing without biennial licensure.

17 5. Addiction to or dependency on drugs or alcohol.

18 6. Wrongful transfer of a license or falsely impersonating another
19 licensee.

20 7. Unauthorized disclosure of information relating to a patient or a
21 patient's records.

22 8. Payment to any person for solicitation or procurement, either
23 directly or indirectly, of nursing home patronage.

24 9. Violation of this article or a rule adopted pursuant to this
25 article.

26 B. The board may suspend or revoke the certificate of an assisted
27 living facility manager, censure or place on probation an assisted living
28 facility manager or deny a certificate as an assisted living facility manager
29 to a person for any of the following reasons:

30 1. Conviction of a felony or conviction of a misdemeanor involving
31 moral turpitude.

32 2. Obtaining or renewing a certificate by fraud or deceit.

33 3. Unprofessional conduct.

34 4. Practicing without biennial certification.

35 5. Addiction to or dependency on drugs or alcohol.

36 6. Wrongful transfer of a certificate or falsely impersonating another
37 certificate holder.

38 7. Unauthorized disclosure of information relating to a resident or a
39 resident's records.

40 8. Violation of this article or a rule adopted pursuant to this
41 article.

42 C. The board may impose a civil penalty in an amount of not to exceed
43 five hundred dollars on any nursing care institution administrator or
44 assisted living facility manager who violates this article or any rule
45 adopted pursuant to this article. Actions to enforce the collection of these

1 penalties shall be brought in the name of this state by the attorney general
2 or the county attorney in the justice court or the superior court in the
3 county in which the violation occurred. Penalties imposed under this section
4 are in addition to and not in limitation of other penalties imposed pursuant
5 to this article.

6 D. The board may file a letter of concern if, in the opinion of the
7 board, while there is insufficient evidence to support direct action against
8 the license of the administrator or the certificate of the manager, there is
9 sufficient evidence for the board to notify the administrator or manager of
10 its concern.

11 E. Every holder of a nursing care institution administrator's license
12 shall renew it biennially by making application to the board. The renewals
13 shall be granted as a matter of course if the holder has successfully
14 completed at least fifty hours of continuing education every two years as
15 established by the board in its rules, unless the applicant has acted or
16 failed to act in such a manner or under such circumstances as would
17 constitute grounds for taking any of the disciplinary actions permitted by
18 this section. The board shall maintain a log of each complaint substantiated
19 by the board or deficiency report concerning an administrator and shall
20 retain in the administrator's file a copy of each such complaint or report
21 and the action taken on it, if any. The board shall review and consider the
22 administrator's file in determining whether to renew the administrator's
23 license.

24 F. Every holder of an assisted living facility manager's certificate
25 shall renew it biennially by making application to the board. The renewals
26 shall be granted as a matter of course if the holder has successfully
27 completed continuing education every two years as established by the board in
28 its rules, unless the applicant has acted or failed to act in a manner or
29 under circumstances that constitute grounds for taking disciplinary action
30 permitted by this section. The board shall maintain a log of each complaint
31 substantiated by the board or deficiency report concerning a manager and
32 shall retain in the manager's file a copy of each complaint or report and the
33 action taken on it, if any. The board shall review and consider the
34 manager's file in determining whether to renew the manager's certificate.

35 G. Failure on the part of any licensed nursing care institution
36 administrator or certified assisted living facility manager to furnish
37 evidence of having attended the required continuing education hours during
38 the preceding two years shall preclude renewal of the license or certificate
39 unless the continuing education requirement is fulfilled within one hundred
40 twenty days.

41 H. On written request to the board, a nursing care institution
42 administrator in good standing may cause the administrator's name and license
43 to be transferred to an inactive list. Any nursing care institution
44 administrator on inactive license status shall pay a license renewal fee. On
45 written request to the board, and subsequent approval by the board, a nursing

1 care institution administrator on inactive license status may resume active
2 license status on meeting twenty-five hours of continuing education
3 requirements within six months and payment of the current fee.

4 I. On written request to the board, the board shall transfer an
5 assisted living facility manager in good standing to an inactive list. An
6 assisted living facility manager on inactive certificate status shall pay a
7 certificate renewal fee prescribed by the board of not more than one hundred
8 dollars every two years. On written request to the board, and subsequent
9 approval by the board, an assisted living facility manager on inactive
10 certificate status may resume active certificate status on meeting
11 requirements for six hours of continuing education within six months and
12 payment of the current fee.

13 J. Suspension, revocation or denial of renewal of a license or
14 certificate or censure or probation of a licensee or certificate holder by
15 the board becomes effective only on the board's first giving the licensee or
16 certificate holder prior written notice and affording the licensee or
17 certificate holder the right to request a hearing within twenty days of the
18 receipt of notice. A hearing is not required before the denial of an
19 original application for a license or a certificate. All hearings shall be
20 conducted pursuant to title 41, chapter 6, article 10.

21 K. Any person wishing to make a complaint against a licensee or
22 certificate holder under this article shall file a written complaint with the
23 board within one year from the date of the action causing the complaint. If
24 the board determines that the charges made in the complaint are sufficient,
25 if true, to warrant suspension or revocation of a license or certificate
26 issued under this article or censure or probation of a licensee or
27 certificate holder under this article, it shall issue an order fixing the
28 time and place for a hearing and requiring the licensee or certificate holder
29 complained against to appear and answer the complaint. The order shall have
30 affixed to it a copy of the complaint and both shall be served on the
31 licensee or certificate holder either personally or by certified mail sent to
32 the licensee's or the certificate holder's last known address at least twenty
33 days before the date set for the hearing. All hearings shall be conducted
34 pursuant to title 41, chapter 6, article 10.

35 L. The board and an administrator or manager may enter into a
36 settlement of any matter under investigation either before or after a notice
37 of the hearing has been issued if the board determines that the proposed
38 settlement adequately protects the public safety, health and welfare. The
39 board shall record the terms of each settlement entered into and shall make
40 the record available for public inspection.

41 M. Except as provided in section 41-1092.08, subsection H, final
42 decisions of the board are subject to judicial review pursuant to title 12,
43 chapter 7, article 6.

1 N. If the board has initiated an investigation pursuant to this
2 section, the board may continue the investigation and discipline the person
3 under investigation even if that person resigns from practice after the board
4 has initiated the investigation.

5 O. IF THE BOARD DETERMINES THAT A PERSON HAS VIOLATED THIS CHAPTER OR
6 A RULE ADOPTED PURSUANT TO THIS CHAPTER, IT MAY ASSESS THE PERSON WITH ITS
7 REASONABLE COSTS AND EXPENSES, INCLUDING ATTORNEY FEES, THAT THE BOARD
8 INCURRED IN CONDUCTING THE INVESTIGATION AND HEARING. THIS ASSESSMENT SHALL
9 NOT EXCEED FIVE HUNDRED DOLLARS. THE BOARD SHALL DEPOSIT, PURSUANT TO
10 SECTIONS 35-146 AND 35-147, ALL MONIES IT COLLECTS PURSUANT TO THIS
11 SUBSECTION IN THE NURSING CARE INSTITUTION ADMINISTRATORS' LICENSING AND
12 ASSISTED LIVING FACILITY MANAGERS' CERTIFICATION FUND ESTABLISHED BY SECTION
13 36-446.08. THE BOARD SHALL USE MONIES DEPOSITED IN THE FUND PURSUANT TO THIS
14 SUBSECTION ONLY TO DEFRAY ITS EXPENSES RELATED TO DISCIPLINARY INVESTIGATIONS
15 AND HEARING AND TRAINING RELATED TO INVESTIGATIONS.